

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CURT F. HANSFORD,)	CASE NO. C05-1846-MAT
)	
Petitioner,)	
)	
v.)	ORDER DENYING PETITIONER'S
)	MOTION FOR APPOINTMENT OF
JOSEPH LEHMAN,)	COUNSEL
)	
Respondent.)	
_____)	

Petitioner is a state prisoner who has filed *pro se* a petition for habeas corpus pursuant to 28 U.S.C. § 2254. Respondent has filed her answer to the petition. (Doc. #10). In his response to respondent's answer, petitioner includes a motion to amend his petition to name a proper respondent and also seeks appointment of counsel. (Doc. #13). In support of his motion for counsel, petitioner has submitted an affidavit from a woman named Tarea Lujan, who states that petitioner suffers from a medical condition – "Attention Deficit Hyperactivity Disorder" – that interferes with his ability to represent himself. (Doc. #14). The court, having considered petitioner's motion, the affidavit, and the balance of the record, does hereby find and ORDER:

(1) Petitioner's motion to amend his petition to name a proper respondent is GRANTED. Petitioner's petition is hereby amended to name Alice Payne as respondent instead of Joseph Lehman.

01 (2) Petitioner's motion for appointment of counsel (Doc. #13) is DENIED. There is
02 no right to have counsel appointed in cases brought under 28 U.S.C. § 2254 unless an evidentiary
03 hearing is required. *See McCleskey v. Zant*, 499 U.S. 467, 495 (1991); Rule 8(c) of the Rules
04 Governing Section 2254 Proceedings for the United States District Courts, 28 U.S.C. foll. § 2254.

05 Although the court may exercise its discretion to appoint counsel for a financially eligible
06 individual where the "interests of justice so require" under 18 U.S.C. § 3006A, petitioner fails to
07 demonstrate that the interests of justice would be best served by appointment of counsel in this
08 matter. The court notes that Ms. Lujan, who attests in her affidavit to petitioner's medical
09 condition, does not claim to be a doctor, nurse, or health professional of any kind. Therefore, her
10 affidavit is of questionable probative value regarding petitioner's mental ability. In addition, even
11 if the affidavit were given weight, the court notes that petitioner has been able to file a response
12 to respondent's answer, and the matter is ready for consideration by the court.

13 (3) The Clerk shall direct copies of this Order to petitioner, to counsel for respondent,
14 and to the Honorable James L. Robart.

15 DATED this 29th day of March, 2006.

16 
17 Mary Alice Theiler
18 United States Magistrate Judge
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